

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MYRON G. BRANDON,

Petitioner,

v.

SCOTT FRAKES,

Respondent.

No. C10-5687 RBL/KLS

REPORT AND RECOMMENDATION
Noted For: October 29, 2010

This habeas corpus action has been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. §§ 636(b)(1) and Local MJR 3 and MJR 4. Petitioner filed this action under 28 U.S.C. § 2254 challenging his 2000 conviction for Robbery in the First Degree. Dkt. 1-1. His motion for leave to proceed *in forma pauperis* is pending. Dkt. 1.

The court's records reflect that this petition is successive. Accordingly, the undersigned recommends that this file should be administratively closed and the case transferred to the Ninth Circuit in accordance with Circuit Rule 22-3(a).

DISCUSSION


Ninth Circuit Rule 22-3 (a) states:

(a) Application. Any petitioner seeking leave to file a second or successive 2254 petition or 2255 motion in district court must seek leave under 28 U.S.C. §§ 2244 or 2255. An original and five copies of the application must be filed with the Clerk of the Court of Appeals. No filing fee is required. If a second or successive petition or motion, or application for leave to file such a petition or motion, is mistakenly submitted to the district court, the district court shall refer it to the court of appeals.

On November 3, 2009, Petitioner filed another petition for writ of habeas corpus in Case No. C09-5689BHS. (Dkt. 1 therein). That petition was transferred to the Ninth Circuit pursuant to Circuit Rule 22-3(a). (Dkts. 3 and 7 therein).

CONCLUSION

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on **October 29, 2010**, as noted in the caption.


Karen L. Strombom
United States Magistrate Judge